

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

CARTER TERALL MOORE,

Petitioner,

v.

BEN CURRY, Warden,

Respondent.

Case No. CV 08-05804 FMC (AN)

MEMORANDUM AND ORDER
SUMMARILY DISMISSING
SUCCESSIVE PETITION FOR WRIT
OF HABEAS CORPUS FOR
FAILURE TO OBTAIN PRIOR
AUTHORIZATION FROM THE
NINTH CIRCUIT

I. Background

On September 5, 2008, petitioner Carter Terall Moore, a state prisoner, filed his pending *pro se* petition for writ of habeas corpus ("Petition") pursuant to 28 U.S.C. § 2254 ("§ 2254"). The Petition raises three grounds for federal habeas relief from Moore's state custody arising from his 1987 state conviction and related forty-five year prison sentence for lewd acts with a child under the age of fourteen that he sustained in the California Superior Court for Los Angeles County in case no. A639292 ("1987 Conviction"). (Pet. 2; Official records of California courts.^{1/})

^{1/} The Court takes judicial notice of the state appellate court records for Petitioner's case available on the internet at <http://appellatecases.courtinfo.ca.gov>. See *Smith v. Duncan*, 297 F.3d 809, 815 (9th Cir. 2002) (federal courts may take judicial notice of relevant state court records in federal habeas proceedings).

1 filing of the second or successive application only if it
 2 presents a claim not previously raised that satisfies one of the
 3 two grounds articulated in § 2244(b)(2). § 2244(b)(3)(C);
 4 *Gonzalez v. Crosby*, 545 U.S. 524, 529-530, 125 S.Ct. 2641,
 5 162 L.Ed.2d 480 (2005); see also *Felker v. Turpin*, 518 U.S.
 6 651, 656-657, 664, 116 S.Ct. 2333, 135 L.Ed.2d 827 (1996).
 7 *Burton v. Stewart*, 549 U.S. ---, 127 S. Ct. 793, 796-99 (2007).

8 Based upon the foregoing, the Court finds Moore's pending Petition is clearly a
 9 "second or successive" habeas petition relative to his 2000 Petition that was dismissed
 10 as time-barred. Moreover, the Petition, attached exhibits, and records of the Ninth
 11 Circuit establish the Petition constitutes an unauthorized second or successive petition
 12 because the Ninth Circuit has not granted Moore permission to file it with this Court.


13 Accordingly, the reference to the Magistrate Judge is vacated and the unauthorized
 14 successive Petition is dismissed because Court lacks jurisdiction to consider it. The
 15 Clerk is directed to enter the judgment dismissing the Petition. Any and all other
 16 pending motions are terminated.

17 IT IS SO ORDERED.

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 20 Dated: Sept 16, 2008


 FLORENCE-MARIE COOPER
 UNITED STATES DISTRICT JUDGE

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 23 Presented by:

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 25 
 Arthur Nakazato
 26 United States Magistrate Judge
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